

REMARKS/ARGUMENTS

After the foregoing Amendment, claims 37 and 39-45 are currently pending in this application. Claims 37 and 39 are amended. Claim 38 is canceled.

Request for Withdrawal of the Finality of the Office Action

The Applicants respectfully request that the Examiner withdraw the finality of the Office Action mailed on December 3, 2008 because a Request for Continued Examination has been filed concurrently with this reply.

Claim Rejections - 35 USC §103

Claims 37-45 are rejected under 35 U.S.C. §103(a) as being unpatentable over Quick Jr. (US 5,673,259) (hereinafter Quick) in view of obviousness.

Applicants respectfully disagree with the Examiner. The pending claims recite a method for use in a code division multiple access (CDMA) user device including transmitting data to a base station over a plurality of wireless channels; receiving data from at least one data buffer in the base station over a data traffic channel; receiving control data indicative of a data rate associated with the data traffic channel over a control channel; wherein the CDMA user device is dynamically assigned additional data traffic channels for receiving data based on an urgency factor.

Quick discloses a method wherein a communicating transceiver initializes a packet service request, requests a searcher reservation on the access channel, and sends the digital data packet over a random access channel using the specific long code corresponding to the communicating transceiver to obtain a coded digital data packet.

The Examiner cited a section of Quick directed at a "searcher reservation scheme." See column 9, line 50 – column 10, line 4. According to Quick, a searcher element "is a sliding correlator receiver that continually scans a time domain window in search of a particular user's information signal. In a system with multiple demodulation elements, a searcher element may also scan a set of time offsets around the nominal arrival of the signal in search of multipath signals that have developed. Typically, the controller directs the searcher to scan the received signal from the base station antenna and correlate the received signal with a known PN spreading sequence (or Long Code) associated with a particular mobile transmitter." See column 9, line 50 – column 10, line 4. However, Quick fails to teach or suggest a receiving data from at least one data buffer in the base station over a data channel and to receive control data indicative of a data rate associated with the data traffic over a control channel and wherein the CDMA user device is dynamically assigned additional data traffic channels for receiving data based on an urgency factor, wherein the urgency factor is based of data present in the data buffer, as is recited by the pending claims.

Quick and the cited references of record, either alone or in combination, fail to teach or suggest the pending claims. Accordingly, Applicants believe the pending claims are novel and patentable over the cited art.

Claims 39-46 are dependent upon claims 37, and the Applicants believe these claims are allowable over the cited references of record for the same reasons provided above.

Based on the arguments presented above, withdrawal of the 35 U.S.C. §103(a) rejection of claims 37 and 39-46 is respectfully requested.

Conclusion

If the Examiner believes that any additional minor formal matters need to be addressed in order to place this application in condition for allowance, or that a telephonic interview will help to materially advance the prosecution of this application, the Examiner is invited to contact the undersigned by telephone at the Examiner's convenience.

Applicant: Foore et al.
Application No.: 10/767,016

In view of the foregoing amendment and remarks, Applicants respectfully submit that the present application is in condition for allowance and a notice to that effect is respectfully requested.

Respectfully submitted,

Foore et al.

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Enclosure